IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9416 OF 2007

Abdul Rehman M. Pambara
and Ors. ...Petitioners

Versus

The Commissioner of Police,
Mumbai and Ors. ....Respondents

Sandeep Shinde, Adv. for the petitioners.
Ms.V.Mhaisapurkar, Adv. for the respondents.

CORAM: S.C.DHARMADHIKARI, J.

20th December, 2007.

P.C. :

1. The challenge is to the appellate order upholding the suspension of the petitioners licence under the Bombay Police Act.

2. In para-7 of the impugned order, several reasons are mentioned for upholding the action. The first, is that, the petitioner has been involved in a criminal case wherein the deposit amount has been forfeited and that means that he has admitted his guilt.

3. Insofar as, this reason is concerned, the same is forming part of the Show Cause Notice and the order impugned before the Appellate Authority as well. However, none dispute the fact that the reference to the Criminal Case is C.C.No.562/H/2007 in the Girgaon Court, registered by the Tardeo Police station and Learned Metropolitan Magistrate Court at Girgaun, therein has passed an order on 22.5.2007. The accused therein was the Manager of the petitioner. The order states that the Accused is acquitted for the alleged offence under Section 33(w) of the Bombay Police Act and his bail bond stands cancelled. This is an order of acquittal and there is no forfeiture of any deposit amount as is observed by the Appellate authority. Thus, this reason is unsustainable in law.

4. However, I find from a perusal of the entire appellate order, that there is substance in the conclusion drawn by the appellate authority that the petitioner has violated the terms and conditions of the licence Rules and more particularly Rule 8(1) and Rule 8(2). Further, the petitioner has been subjected to such action on two occasions earlier. In such circumstances, I called upon Mr.Shinde appearing for the petitioner to take instructions as to whether the petitioner is willing to abide by all terms and conditions of the licence, so also is, ready and willing to furnish an Undertaking to the Licensing Authority stating therein that he would strictly abide by all terms and conditions including not permitting any indecent activity and exposure in the licensed premises. The petitioner has been subjected to the action of suspension of his licence on three occasions now.

5. If the Undertaking is filed, but, it is discovered later that he has breached the terms and conditions of the licenceit would be open for the Licensing Authority to proceed and cancel the licence.

6. If such an Undertaking is filed with the Licensing Authority, the Licensing Authority to ensure compliance of Rule 8(1) and Rule 8(2) by considering the application preferred by the petitioner, in that behalf, and copy of which is annexed as Annexure-D (page-25) of the petition paper-book. Once the Licensing Authority grants the necessary approval and permission to employ the persons concerned, and the Undertaking is also filed, then, the petitioner would be permitted to operate the said licence and thereupon the action of suspension of subject licence shall stand set aside. Mr.Shinde, states that all compliance would be made within a period of fifteen days from today. Statement accepted. Petition disposed off.

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